

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

RECEIVED

In the Matter of

MAY 13 2003

Amendment of Section 73.202(b))	
Table of Allotments)	MB Docket No. 03-26
FM Broadcast Stations)	RM - 10638
(Shawnee and Topeka, Kansas))	

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

To: Assistant Chief, Audio Division
 Media Bureau

MOTION TO STRIKE

Cumulus Licensing Corp. ("Cumulus"), licensee of Station KMAJ-FM, Topeka, Kansas, by its counsel, hereby moves to strike the late filed comments submitted by Allur-Kansas City, Inc. ("Allur") on May 1, 2003. Allur claims that there is new information which justifies filing these comments 45 days after the comment deadline. However, as will be discussed, the "new information" is based on speculation and has no decisional significance on the outcome of this proceeding.

1. The Commission requires that a separate motion to accept a late filed pleading must be submitted pursuant to Section 1.415.¹ Allur has not filed such a motion. As for the Allur letter, the basis for the late filing is contrived. Nothing has happened since the close of the comment period to place any doubt on the merits of Cumulus' request to serve Shawnee, Kansas. The Commission's allocation policies only require that the new community be independent. Cumulus demonstrated that Shawnee is an independent community. The possible new location of the KMAJ transmitter site is irrelevant as long as it meets the Commission's principal

No. of Copies rec'd 014
 List A B C D E


¹ Madisonville, College Station, Giddings, Bay City, Columbus, Edna, Garwood, Palacios and Sheridan, Texas, 18 FCC Rcd 640 (2003) at note 7.

specify a new site closer to Shawnee depending on the circumstances that exist at the appropriate time. Allur does not have the right to abuse the Commission's processes by making unsupported allegations so as to delay the instant proceeding.

Accordingly, the Commission should discourage such abusive filings by granting the proposal to reallocate Channel 299C1 to Shawnee, Kansas and modify KMAJ-FM's license without delay.

Respectfully submitted,

CUMULUS LICENSING CORP.

By: 
Mark N. Lipp, Esq.
Vinson & Elkins, LLP
The Willard Office Building
1455 Pennsylvania Avenue, NW
Washington, DC 20004-1008

Its Counsel

May 13, 2003

CERTIFICATE OF SERVICE

I, Lisa M. Balzer, a secretary in the law firm of Vinson & Elkins, do hereby certify that I have on this 13th day of May, 2003 caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Motion to Strike" to the following:

* Deborah A. Dupont
Federal Communications Commission
Media Bureau
445 12th Street, SW
Room 2-A834
Washington, DC 20554

Howard A. Topel, Esq.
David S. Keir, Esq.
Leventhal Senter & Lerman, PLLC
2000 K Street, NW
Suite 600
Washington, DC 20006
(Counsel to Allur-Kansas City, Inc.)


Lisa M. Balzer